

**NEXUS BANKRUPTCY**  
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Attorney for Debtor

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**RIVERSIDE DIVISION**

In re:

**JARED HUNTER SCARTH,**  
  
Debtor.

Case No.: 6:23-bk-10960-WJ

Chapter 13

**DEBTOR'S OPPOSITION TO THE  
CHAPTER 13 TRUSTEE'S MOTION TO  
DISMISS AND REPLY TO OBJECTION  
TO CONFIRMATION OF CHAPTER 13  
PLAN**

**Confirmation Hearing:**

Date: May 31, 2023

Time: 3:30 p.m.

Location: Courtroom 304

3420 Twelfth Street  
Riverside, CA 92501

Debtor, Jared Hunter Scarth, hereby opposes the Chapter 13 Trustee's Motion to Dismiss and replies to their Objection to Confirmation as follows:

**ARGUMENT**

On May 15, 2023, Debtor's Counsel reached out to Bridget Kelly, staff attorney for the Chapter 13 Trustee, and informed her that the Debtor was current on his mortgage payments, but that the Secured Debt Payment History Declaration ("SDPHD") was not yet filed due to Counsel being burdened with a series of family emergencies (to put it lightly). On May 17, 2023, Debtor's Counsel sent Ms. Kelly an email which contained an unsigned copy of the completed

SDPHD and indicated that it would be promptly filed. The SDPHD was then promptly filed later that evening once Debtor's Counsel obtained the Debtor's signature.

As shown from the payment history attached to the SDPHD, the Debtor and his spouse have been consistently and timely making their first mortgage payments since well before this case was contemplated. It is only the Western Star Financial and Prominence Capital Partners deeds of trust that have caused the Debtor and his family a financial hardship. The timeliness of the filing of the SDPHD is not indicative of any failure on the part of the Debtor and it is not in any way an indication that this Plan is not viable. Although Debtor intends to have the liens voided in a separate adversary proceeding, his ultimate goal is to save his home and intends to complete his Plan regardless of the outcome of that proceeding.

On May 12, 2023, Debtor tendered a payment through the Trustee's TFS system in the amount of \$3,150.

On May 15, 2023, Ms. Kelly sent Debtor's Counsel an email indicating that the Chapter 13 Trustee would be recommending confirmation of the plan. Ms. Kelly indicated that the terms of the plan would be payment of \$3,000 for month 1, and \$3,858 for months 2 through 60.

On May 15, 2023, after Debtor's Counsel informed the Debtor of the Trustee's recommendation, he tendered another payment in the amount of \$3,858 through MoneyGram. Currently, Debtor is ahead of his payment obligations and only has \$708 remaining on his June Plan payment.

The Debtor's Motion to Avoid Lien that was originally filed on April 13, 2023 requires an amendment in order for the attached exhibits to be properly authenticated. This Motion will be promptly filed.

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**CONCLUSION**

For the reasons stated above, it is respectfully requested that the Court overrule the trustee's Objection to Confirmation and deny their Motion to Dismiss. In the alternative, it is respectfully requested that the Court continue this hearing which will cure the deficiencies outlined by the Chapter 13 Trustee.

Date: May 24, 2023

  
BENJAMIN HESTON,  
Attorney for Debtor

**DECLARATION OF BENJAMIN HESTON**

I, Benjamin Heston, declare as follows:

1. I am the attorney for the Debtor in this bankruptcy case. I have personal knowledge of all matters stated herein. On all matters stated on information and belief, I believe those allegations to be true. I could competently testify to the allegations contained herein.

2. For the past several weeks, I have been dealing with an ongoing series of family emergencies which put me out of work during the time that the Secured Debt Payment History Declaration ("SDPHD") was due on May 10, 2023.

3. On May 15, 2023, I reached out to Bridget Kelly to inform her that the Debtor was current on his mortgage payments and that I was in the process of preparing the SDPHD. Ms. Kelly indicated that once the SDPHD was filed and the Motion to Avoid Lien was granted, the Chapter 13 Trustee would be recommending that the Plan be confirmed. Attached hereto as Exhibit A is a true and correct printout of the email containing the Plan terms.

4. After receiving the Trustee's email, I reached out to my client and informed him of the Trustee's recommendation. He indicated that he had already made a payment of \$3,150, but that he would also make a payment of \$3,858 through MoneyGram so that the payment would post to the Trustee's accounting within a few days as opposed to the typical 7 to 10 days that it takes through the TFS system. Attached hereto as Exhibit B is a true and correct printout from TFSBillPay.com which shows the two payments made by the Debtor.

5. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: May 24, 2023

  
BENJAMIN HESTON

# EXHIBIT A





Ben Heston &lt;ben@nexusbk.com&gt;

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**Re: Scarth #23-10960-WJ**

1 message

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**Bridget Kelly** <bridget@rodan13.com>

Mon, May 15, 2023 at 12:39 PM

To: Ben Heston &lt;ben@nexusbk.com&gt;

Plan payment:

\$2500 atty fee

\$2361 RS County 2022 tax yr

\$3037 RS County 2017 tax yr (\$1993.53 + 18%)

\$28,556.40 Dept of Tax &amp; Fee (\$26,516 + 3%)

\$95,749 Prominence (\$77,326.93 + 8.75%)

\$74,294 Western (\$60,000 + 8.75%)

\$660 Wells Fargo

\$417 unsecured

SUBTOTAL: \$207,574

Tr fee: \$23,063.78

TOTAL: \$230,637.78

Less \$3,000 April plan payment

Equals: \$227,637.78, divided over remaining 59 months = \$3858, 2-60

# EXHIBIT B



# The Online & Automated Solution to Chapter 13 Bankruptcy Payments

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 [tfsbillpay.com/paralegal/debtors/747057](https://tfsbillpay.com/paralegal/debtors/747057)

## Debtor – Jared Scarth

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### Bank Info

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Edit

**Bank name**

Bank of America

**Account Type**

Checking

**Account Number**

\*\*\*\*\*8427

**Routing Number**

063100277

### Payments

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Edit

**Schedule**

Always Manual Payments

### Authorization

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**No authorization. You cannot manage this account without an authorization.**

[Add Authorization](#)

### Case Info

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Edit

**Case Number**

23-10960

**Trustee**

Rod Danielson (TR)



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## Upcoming Transactions

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## Processing Transactions

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## Recent Transactions

### [View All Transactions](#)

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Date	Payee	Type	Status	Amount	TFS Fee	Total
May 15, 2023	Rod Danielson (TR)	Trustee Payment	Complete	\$3,858.00	\$0.00	\$3,858.00
May 12, 2023	Rod Danielson (TR)	Manual Debtor Payment	Complete	\$3,150.00	\$7.99	\$3,157.99

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**100 Bayview Circle, Suite 100  
Newport Beach, CA 92660**

A true and correct copy of the foregoing document entitled (*specify*): **DEBTOR'S OPPOSITION TO THE CHAPTER 13 TRUSTEE'S MOTION TO DISMISS AND REPLY TO OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 5/24/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Rod Danielson (TR) notice-efile@rodan13.com  
Robert P Goe kmurphy@goeforlaw.com,  
rgoe@goeforlaw.com;goeforecf@gmail.com  
Brandon J Iskander biskander@goeforlaw.com,  
kmurphy@goeforlaw.com  
Ali Matin ali.matin@usdoj.gov,  
carolyn.k.howland@usdoj.gov

Bradley A Patterson bapatterson@lgilaw.com  
Valerie Smith claims@recoverycorp.com  
Todd L Turoci mail@theturocifirm.com  
United States Trustee (RS)  
ustpreion16.rs.ecf@usdoj.gov  
Jennifer C Wong bknotice@mccarthyholthus.com,  
jwong@ecf.courtdrive.com

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) 5/24/2023 I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Judge Wayne E. Johnson  
3420 Twelfth Street  
Suite 384 / Courtroom 304  
Riverside, CA 92501-3819

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL**

Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed (state method for each person or entity served):

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

5/24/2023  
Date

Benjamin Heston  
Printed Name

/s/Benjamin Heston  
Signature